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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. |
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08/940,203 09/29/97 POSSIDENTO

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IM22/0321

EXAMINER

MANOHARAN, V

ART UNIT

PAPER NUMBER

1764

14

DATE MAILED: 03/21/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
08/940,203

Applicant(s)
WILLIAM POSSIDENTO

Examiner
VIRGINIA MANOHARAN

Group Art Unit
1764



☒ Responsive to communication(s) filed on Dec 28, 1999

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1 and 2 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1 and 2 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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The request for continuing prosecution application (CPA) under 37 CFR 1.53(d), the Appeal Brief (Revised) and the amendments filed on December 12, 1999, in the same file, have been considered. This Office action is based on CPA with claims 1-2, (amended), relative to the filed amendments.

Applicant is advised that the numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

Misnumbered claims 1 and 2 should be renumbered as claims 23-24 in response to this office action. The non-allowed claims 13-22, being cancelled?

Applicant is further advised that 37 C.F.R. 125 (b) states that an applicant filing a substitute specification must state that now no "new matter" is included.

Claims 1-2 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

(a) The term "an improved" in claims 1-2 lines 1, should be deleted respectively. Otherwise the claims should be recited in Jepson format with terms "In a" and "wherein the improvement comprises" being used in the claims.

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- (b) The terms “outer” as in outer tube without reciting for an inner tube provides for ambiguity in the claims.
- (c) The claimed “means to reduce” recited in claim 1, line 18 should be -means for reducing- as the latter is the term authorized by 25 U.S.C. 112, 6th paragraph. See also claim 2, line 1 (page 11).
- (d) In claims 1, lines 23-24, reciting “photochromic material” in lieu of “material that is photochromic in nature” is better as the latter fails to ascertain the claimed invention with precision. See also claim 2.
- (e) It is suggested that the term “adapted” should be deleted in the claims. It is unclear for example, whether the enclosed outer tube do in fact allow for the flow of liquids with the recitation of “adapted for” e.g. in claim 1, line 3. See also claim 2.

Also, the term “improved” in the title should be deleted because a patent application is, by its nature, a new idea or improvement. See MPEP 606.01.

- (f) In claim 1, line 6, “plain” is a typographical error?

Also the “central plain” (sic) is not an element of a structure. Reciting -means for bisecting said outer tube into an upper section and a lower section is better. See also claim 2.

Claims 1-2 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office Action.

With Regards to Appeal Brief :

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While one can argue a 103 obviousness rejection by citing the advantages of an invention over the prior art, however, the argued advantages e.g. “.. the distillation system may be constructed as a large pipe line stretching hundred of miles” were not disclosed in the specification as originally filed. (The specification is controlling). See *In re Davies*, 177 USPQ 381 (CCPA 1973). It is noteworthy that an artisan knows the properties, characteristics, advantages and limitations imposed by materials of rigid and non-rigid construction (of metals, plastic, glass, quartz, etc., materials) prior utilizing them. Thus, the advantages relied upon is deemed to be expected, not unexpected. That is, the use of a rigid construction is not an unobvious subject matter nor is it evidence of criticality in the art. It would be within the purview of an engineer to construct the device of rigid construction so as to obtain the benefit of being able to stretch the pipeline hundred of miles.

2. Applicant following remarks such as: the examiner “deliberately and falsely excluded that passage between the words “V cover and still” in order to knowingly create a distortion in the record... omitting the passage that mentions the valley falsely gives the impression that the V cover is the collector and that it is the one that is tilted” are not well-taken.

The “valley and the “V cover” are not being relied upon. Reliance is being placed on the phrase “sloped collecting trough” which is within the quoted passage. (Underlining supplied). The term “sloped” is deemed synonymous to “tipping” or “tilting” argued by applicant. Thus, the sloped collecting trough is deemed synonymous or corresponding to the argued tilting or tipping of the trough.

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It is noted that an applied references is not limited to what is specifically disclosed but maybe considered for what it would have reasonably suggested to one of ordinary skill in the art. "in considering disclosure of a reference, it is proper to take into account not only specific teachings of the reference but also inferences which one skilled in the art would reasonably be expected to draw therefrom". In re Preda (CCPA) 159 USPQ 342. (Underlinings supplied).

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- (a) The Roget's Thesaurus teaches tha "slope" is synonymous to "tilt".
- (b) Hirota et al discloses the used of a plastic material, a metal material, glass and composite materials of these materials as a construction material for the roof member in apparatus for recovering fresh water.
- (c) Wilkerson, Jr discloses a solar still with a U-shaped collection trough.
- (d) Rush discloses a solar heated evaporiting and condensing unit.
- (e) Klein and Bimpson et al both disclose a solar water distilling apparatus.

Any inquiry concerning this communication should be directed to V. Manoharan at telephone number (703) 308-3844.

Manoharan/mm

March 21, 2000

Handwritten signature
3/21/00